

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

WELLS FARGO BANK, N.A.,
525 Market Street, Floor 19
San Francisco, CA 94105-2727

Case No.

Plaintiff,

v.

JPMORGAN CHASE BANK, N.A.
c/o The Corporation Trust Incorporated,
351 West Camden Street
Baltimore, MD 21201-7912,

Defendant.

NOTICE OF REMOVAL

PLEASE TAKE NOTICE that, pursuant to 28 U.S.C. §§ 1441 and 1446, defendant, JPMorgan Chase Bank, N.A. (“Chase Bank”), by its counsel, Michael Best & Friedrich LLP removes this case from Kenosha County Circuit Court where the case was pending, to this Court. Removal is proper based on diversity of citizenship grounds, for the reasons Chase Bank sets forth below.

1. On or about March 12, 2010, plaintiff, Wells Fargo Bank, N.A. (“Wells Fargo”), commenced Case No. 10CV0572 against Chase Bank in Kenosha County Circuit Court. The attached **Exhibit A** is a true and correct copy of Wells Fargo’s complaint in that action (“Complaint”), along with the accompanying summons.

2. In its Complaint, Wells Fargo claims Chase Bank improperly cashed a check without Wells Fargo’s endorsement and alleges claims for statutory and common-law conversion, negligence, and joint and several liability. (*See generally* Exhibit A, Complaint).

Wells Fargo seeks compensatory damages of \$137,772.42, consequential damages, prejudgment and postjudgment interest, and statutory costs and attorney fees. (*Id.*, p. 3, ¶ 22, p. 4, ¶¶ A-C).

3. Wells Fargo served the Complaint on Chase Bank on March 18, 2010. Chase Bank files this Notice of Removal within thirty (30) days of that date.

4. Chase Bank will file a true and correct copy of this Notice of Removal, with the attachments, with the Clerk of the Kenosha County Circuit Court and provide written notice to Wells Fargo, as 28 U.S.C. § 1446(d) requires.

JURISDICTION

5. This Court has jurisdiction of this action pursuant to the provisions of 28 U.S.C. § 1332 based on diversity of citizenship between Wells Fargo and Chase Bank, and this action is therefore removable to this Court pursuant to the provisions of 28 U.S.C. §§ 1441 and 1446.

6. Wells Fargo is a citizen of South Dakota. *See* 28 U.S.C. § 1348 (national bank is citizen of state where bank is located); *Wachovia Bank, N.A. v. Schmidt*, 546 U.S. 303, 307 (2006) (national bank is located in, and therefore a citizen of, state of main office designated in articles of association); *Wells Fargo Bank, N.A. v. WMR e-PIN, LLC*, Civil No. 08-5472 (JNE/FLN), 2008 U.S. LEXIS 104558, at *3 (D. Minn. Dec. 29, 2008) (“Wells Fargo’s articles of association designate Sioux Falls, South Dakota, as the location of Wells Fargo Bank’s main office.”).


7. Chase Bank’s main office, according to its articles of association, is Columbus, Ohio. Hence, Chase Bank is a citizen of Ohio, and complete diversity of citizenship exists between Chase Bank and Wells Fargo.

8. The amount in controversy, exclusive of interest and costs, exceeds seventy-five thousand dollars (\$75,000.00). Indeed, Wells Fargo claims Chase Bank owes Wells Fargo \$137,772.42 in compensatory damages alone. (See Exhibit A, Complaint, p. 3, ¶ 22, p. 4, ¶ A).

9. Venue is proper pursuant to 28 U.S.C. § 1446(a) in that the Kenosha County Circuit Court is located within the geographical territory assigned to this federal judicial district and division.

Dated this 15th day of April, 2010

MICHAEL BEST & FRIEDRICH LLP

By: 
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Attorneys for JPMorgan Chase Bank, N.A.

COPY

STATE OF WISCONSIN

CIRCUIT COURT

KENOSHA COUNTY

WELLS FARGO BANK, N.A.,

FILED

Plaintiff,

MAR 12 2010

v.

REBECCA MATOSKA-MENTINK
CLERK OF CIRCUIT COURT

Case No.

10CV0572

Case Code: 30301

JP MORGAN CHASE BANK, N.A.
c/o The Corporation Trust Incorporated,
351 West Camden Street
Baltimore, Maryland 21201-7912

BRUCE E. SCHROEDER
Circuit Judge Branch 3

Defendant.

COMPLAINT

Wells Fargo Bank, N.A., ("Wells Fargo"), as successor by merger to Wells Fargo Home Mortgage, Inc. by its attorneys, Litchfield Cavo LLP, as and for its Complaint against JP Morgan Chase Bank N.A. ("Chase Bank"), alleges as follows:

THE PARTIES

1. Plaintiff Wells Fargo Bank N.A. is a national association with its principal place of business in California. Wells Fargo Bank N.A. has offices in Wisconsin and regularly engages in business in Wisconsin. Wells Fargo Bank N.A. is the successor by merger to Wells Fargo Home Mortgage, Inc.

2. Defendant JP Morgan Chase Bank ("Chase Bank") is a national association with its principal place of business located at 270 Park Avenue, 35th Floor, New York, New York 10017. Chase Bank's registered agent for service of process is The Corporation Trust Incorporated, 351 West Camden Street, Baltimore, Maryland 21201-7912. Chase Bank regularly conducts business in Kenosha, Wisconsin.

EXHIBIT

A

FACTUAL BACKGROUND

3. Wells Fargo is the current owner and holder of a note and recorded mortgage on real estate located at 4035 10th Avenue, Kenosha, WI 53140 (the "Trimble Property").

4. At all times relevant to this Complaint, Charles Trimble was the owner of record of the Trimble Property

5. Upon information and belief, as the holder of the note and mortgage on the Trimble Property, Wells Fargo was identified as a loss payee on a policy of insurance issued by Allstate to Charles Trimble for the Trimble Property.

6. The Trimble Property sustained fire damage in January 2007. Upon information and belief, the January 2007 fire rendered the Trimble Property a total loss. The Trimble Property was eventually razed by the City of Kenosha.

7. Allstate paid \$137,772.45 for the January 2007 fire loss by issuing Check Number 541397106 made payable to Charles Trimble and Wells Fargo Home Mortgage.

8. Chase Bank improperly cashed Check No. 541397106 without the endorsement of Wells Fargo.

9. Wells Fargo never received any portion of the \$137,772.45 paid by Chase Bank on Check Number 541397106.

FIRST CLAIM - WISCONSIN STATUTE SECTION 403.116

10. Wells Fargo realleges and incorporates herein by reference paragraphs 1 through 9, above.

11. Allstate's Check Number 541397106 named Wells Fargo Mortgage and Charles Trimble as payees.

12. Wells Fargo did not endorse Check Number 541397106.

13. Absent Wells Fargo's endorsement, Check Number 541397106 was not properly payable.

14. Chase Bank was on notice that a second endorsement, namely that of Wells Fargo, was required

15. Chase Bank's failure to require the endorsement of Wells Fargo was not commercially reasonable.

16. Chase Bank's conduct has caused Wells Fargo to sustain damages in an amount to be determined by the finder of fact.

SECOND CLAIM - COMMON LAW CONVERSION

17. Wells Fargo realleges and incorporates herein by reference paragraphs 1 through 16, above.

18. Chase Bank converted Wells Fargo's funds by making payment without endorsement of Wells Fargo, the joint payee.

19. Chase Bank's conversion of funds has caused Wells Fargo to sustain damages in an amount to be determined by the finder of fact.

THIRD CLAIM - CONVERSION - WIS. STAT. § 403.420

20. Wells Fargo realleges and incorporates herein by reference paragraphs 1 through 19, above.

21. Chase Bank made payment with respect to Check Number 541397106 for a person not entitled to receive payment.

22. Chase Bank is liable to Wells Fargo in amount up to \$137,772.42, the amount Chase Bank paid out on Check Number 547397106.

23. Chase Bank's conversion of funds has caused Wells Fargo to sustain damages in an amount to be determined by the finder of fact.

FOURTH CLAIM - NEGLIGENCE

24. Wells Fargo realleges and incorporates herein by reference paragraphs 1 through 23, above.

25. Chase Bank owed a duty to Wells Fargo, a payee on Check Number 541397106, to cash the check only with proper endorsement.

26. Chase Bank failed to exercise ordinary care when it improperly cashed Check Number 541397106 without the endorsement of Wells Fargo.

27. Chase Bank's negligence has caused Wells Fargo to sustain damages in an amount to be determined by the finder of fact.

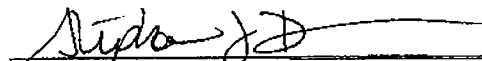
WHEREFORE, Wells Fargo demands judgment in its favor and against Chase Bank as follows:

- A. Judgment of compensatory and consequential damages;
- B. Judgment of pre-judgment and post-judgment interest;
- C. Statutory costs and attorneys' fees; and
- D. Other relief as the Court deems just.

Dated this 9th day of March, 2010.

LITCHFIELD CAVO LLP
Attorneys for Wells Fargo Bank, N.A.

Litchfield Cavo LLP
13400 Bishop's Lane
Suite 290
Brookfield, Wisconsin 53005
Phone: (262) 784-8931
Fax: (262) 784-8812


Stephanie L. Dykeman
State Bar Wis. No. 1035857

COPY

STATE OF WISCONSIN

CIRCUIT COURT

KENOSHA COUNTY

WELLS FARGO BANK, N.A.,

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Plaintiff,

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Case No. **10CV0572**

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REBECCA MATOSKA-MENTINK
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Case Code: 30301

JP MORGAN CHASE BANK, N.A.
c/o The Corporation Trust Incorporated,
351 West Camden Street
Baltimore, Maryland 21201-7912

BRUCE E. SCHROEDER
Circuit Judge Branch 3

Defendant.

SUMMONS

THE STATE OF WISCONSIN

To the Defendant named above:

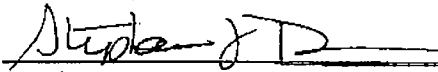
You are hereby notified that the Plaintiff named above has filed a lawsuit or other legal action against you. The Complaint, which is attached, states the nature and basis of the legal action.

Within forty-five (45) days of receiving this Summons, you must respond with a written answer, as that term is used in Chapter 802 of the Wisconsin Statutes, to the Complaint. The Court may reject or disregard an answer that does not follow the requirements of the statutes. The answer must be sent to or delivered to the Court, whose address is: Clerk of Circuit Court, Kenosha County Courthouse, 912 56th Street, Kenosha, Wisconsin 53140, and to Litchfield Cavo LLP, Plaintiff's attorneys, whose address is, Stephanie L. Dykeman, Litchfield Cavo LLP, 13400 Bishops Lane, Suite 290, Brookfield, Wisconsin 53005. You may have an attorney help or represent you.

If you do not provide a proper answer within forty-five (45) days, the Court may grant judgment against you for the award of money or other legal action requested in the Complaint, and you may lose your right to object to anything that is or may be incorrect in the Complaint. A judgment may be enforced as provided by law. A judgment awarding money may become a lien against any real estate you own now or in the future, and may also be enforced by garnishment or seizure of property.

Dated this 9th day of March, 2010.

LITCHFIELD CAVO LLP
Attorneys for Wells Fargo Bank, N.A.


Stephanie L. Dykeman
State Bar Wis. No. 1035857

Litchfield Cavo LLP
13400 Bishop's Lane
Suite 290
Brookfield, Wisconsin 53005
Phone: (262) 784-8931
Fax: (262) 784-8812
dykeman@litchfieldcavo.com

03/18/2010

CT Log Number 516331017

TO: Carl Del Vecchio
JPMorgan Chase Bank, N.A.
1 Chase Manhattan Plaza - 20th Floor, Legal Department
New York, NY 10081-

RE: Process Served in Maryland

FOR: JPMorgan Chase Bank, N.A. (Domestic State: N/A)

ENCLOSED ARE COPIES OF LEGAL PROCESS RECEIVED BY THE STATUTORY AGENT OF THE ABOVE COMPANY AS FOLLOWS:

TITLE OF ACTION: Wells Fargo Bank, N.A., Pltff. vs. JP Morgan Chase Bank, N.A., Dft.
Name discrepancy noted.

DOCUMENT(S) SERVED: Summons, Complaint

COURT/AGENCY: Kenosha County Circuit Court, WI
Case # 10CV0572

NATURE OF ACTION: Monies Due and Owing - Negligence - Failure to require endorsement

ON WHOM PROCESS WAS SERVED: The Corporation Trust Incorporated, Baltimore, MD

DATE AND HOUR OF SERVICE: By Process Server on 03/18/2010 at 10:55

APPEARANCE OR ANSWER DUE: Within 45 days after service - Written response

ATTORNEY(S) / SENDER(S): Stephanie L. Dykeman
Litchfield Cavo LLP
13400 Bishop's Lane
Suite 290
Brookfield, WI 53005
262-784-8931

ACTION ITEMS: CT has retained the current log, Retain Date: 03/18/2010, Expected Purge Date:
04/17/2010
Image SOP

SIGNED: The Corporation Trust Incorporated
PER: Billie Swoboda
ADDRESS: 351 West Camden Street
Baltimore, MD 21201
TELEPHONE: 410-539-2837